

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

BRENDAN KELLY,

Plaintiff,

v.

CIVIL ACTION NO. 15-CV-00234-JL

LIBERTY INSURANCE CORPORATION,

Defendant.

**JOINT AGREED-UPON TRIAL EXHIBIT LIST
SUBMITTED BY PLAINTIFF BRENDAN KELLY AND
DEFENDANT LIBERTY INSURANCE CORPORATION**

Plaintiff Brendan Kelly and Defendant Liberty Insurance Corporation (“Liberty”) hereby submit the following Joint Agreed-Upon Trial Exhibit List.

Joint Agreed-Upon Trial Exhibit List

Trial Exh. #	Description	Exh. to	Bates	ECF #
Exhibits to the Deposition of Michael Day				
1	Deposition Transcript of Michael Day dated August 2, 2017			
2	Documents Produced from Liberty Underwriting File	Day Depo Ex. 1; Documents Produced from Liberty Underwriting File bearing Bates Stamp Numbers L000001- L000451	L000001- L000451	
2A	Email chain; top email dated 5/23/2012 from Michael Day to Paulo Aguiar, Subject: RE: Plum Creek Timber Company – Lead Umbrella quote	Day Depo Ex. 1-A	L000424- L000425	
2B	Email chain; top email dated 5/25/2012 from Paulo Aguir to Michael Day, Subject: RE: Plum Creek Timber Company – Lead Umbrella Binding Order	Day Depo Ex. 1-B		
2C	Email chain; top email dated 6/15/2012 from Michael Day to Evelyn Surban, Subject: RE: Plum Creek Timber Company – Lead Umbrella Binding Order	Day Depo Ex. 1-C	L000414- L000417	
2D	6/15/2012 email from Michael Day to Evelyn Surban, Subject: Plum Creek – Signed TRIA and UM Request form, with attachment	Day Depo Ex. 1-D	L000382- L000388	
2E	3/15/2013 email from Martha Kuykendall to Michael Day, Subject: Umbrella Renewal Information Request – Plum Creek Timber Company, Inc.	Day Depo Ex. 1-E	L000144- L000145	

Trial Exh. Exh.	Description	Exh. to	Bates	ECF #
2F	Email chain; top email dated 5/3/2013 from Connie Cameron to LMProdUmbSanRamon; Evelyn Surban, Subject: FW Plum Creek – Umbrella Renewal Eff: 6/1/2013	Day Depo Ex. 1-F	L000142-L000143	
2G	Email chain; top chain dated 5/21/2013 from Michael Day to Paulo Aguiar; Evelyn Surban, Subject: FW: Plum Creek Timber Company Renewal Eff: 6/1/2013	Day Depo Ex. 1-G	L000135-L000136	
2H	Email chain; top email dated 5/30/2013 from Connie Cameron to Jacquie Brissey, Subject: RE: Plum Creek Timber Company, Inc. – Liberty Lead Umbrella Renewal Quote/Contacts	Day Depo Ex. 1-H	L000088-L000091	
2I	6/1/2013-6/1/2014 Liberty Group Umbrella Excess Liability Proposal	Day Depo Ex. 1-I	L000066-L000080	
2J	Email chain; top email dated 6/3/2013 from Connie Cameron to Evelyn Surban, Subject: FW: Plum Creek Timber Company – signed TRIA and UM/UIM forms	Day Depo Ex. 1-J	L000082-L000087	

Exhibits to the Deposition of David Brown

3	Deposition Transcript of David Brown dated August 3, 2017			
4	US SEC Form 10-K for the fiscal year ended December 31, 2012; Plum Creek Timber Company, Inc.	Brown Depo Ex. 1		
5	US SEC Form 10-K for the fiscal year ended December 31, 2013; Plum Creek Timber Company, Inc.	Brown Depo Ex. 2		
6	Supplementary Affidavit of Kent Jones	Brown Depo Ex. 3; Second Supp. Weizel Dec. Ex. 2 (ECF 39-3)		
7	New Hampshire Excess Uninsured Motorists Coverage Selection or Rejection Form dated May 30, 2013	Brown Depo Ex. 4 (L000023); Adams Aff. Ex. C (ECF 13-3); Plaintiff's MSJ		

Trial Exh. #	Description	Exh. to	Bates	ECF #
		Ex. B (ECF 27-6); Duetsch Dec. Ex. 1 (ECF 30-3); Weizel Dec. Ex. D (ECF 30-4); Plaintiff's Opp to MSJ Ex. 7 (ECF 33-7)		
8	Notice of 2013 Annual Meeting of Stockholders and Proxy Statement; Plum Creek	Brown Depo Ex. 5		
9	6/1/2012 Uninsured/Underinsured Pricing Grid, Plum Creek Timber Company	Brown Depo Ex. 6; Plaintiff's MSJ Ex. J (ECF 27-14); Weizel Dec. Ex. G (ECF 30-7)	L000007	
10	6/1/2013-6/1/2014 Policy Certification Form; Plum Creek Timber Company	Brown Depo Ex. 7		

Exhibits to Pleadings, Motions and Other Court Documents

11	Uniform Police Traffic Crash Report	Petition for Declaratory Judgment Ex. A; Plaintiff's MSJ Ex. D (ECF 27-8)		ECF 1-1
12	Certified Copy of Liberty Policy, eff. 6/1/13-6/1/14	Petition for Declaratory Judgment Ex. B; Adams Aff. Ex. A (ECF 13-1); Plaintiff's MSJ Ex. A (ECF 27-1 to 27-5); Weizel Dec. Ex. A (ECF 30-1); Plaintiff's Opp to MSJ Ex. 3 (ECF 33-3)		ECF 1-2
13	ACE Auto Liability Policy, eff. 6/1/13 – 6/1/14	Petition for Declaratory Judgment Ex. C;		ECF 1-3

Trial Exh. #	Description	Exh. to	Bates	ECF #
		Adams Aff. Ex. B (ECF 13-2); Weizel Dec. Ex. B (ECF 30-2)		
14	Letter dated December 10, 2014 from Joseph Covert, Liberty, to Attorney Robert Stein	Petition for Declaratory Judgment Ex. D; Supp. Adams Aff. Ex. 1 (ECF 18-1); Plaintiff's MSJ Ex. G (ECF 27-11)		ECF 1-4
15	Email dated September 15, 2014 from Joseph Covert, Liberty, to Attorney Robert Stein	Supp. Adams Aff. Ex. 2		ECF 18-1
16	Affidavit of Brendan Kelly	Plaintiff's MSJ Ex. C; Plaintiff's Opp to MSJ Ex. 1, ECF 33-1		ECF 27-7
17	ACE Policy Business Auto Declarations	Plaintiff's MSJ Ex. E; Plaintiff's Opp to MSJ Ex. 2 (ECF 33-2)		ECF 27-9
18	ACE Policy New Hampshire UM Endorsement	Plaintiff's MSJ Ex. F; Plaintiff's Opp to MSJ Ex. 4 (ECF 33-4)		ECF 27-10
19	Affidavit of Melinda Gehris, Esq.	Plaintiff's MSJ Ex. H; Plaintiff's Opp to MSJ Ex. 9 (ECF 33-9)		ECF 27-12
20	Liberty's Index of Forms Submitted to NH Insurance Department	Plaintiff's MSJ Ex. I; Plaintiff's Opp to MSJ Ex. 8 (ECF 33-8)		ECF 27-13
21	Declaration of Lavinia M. Weizel, Esq. in Support of the Motion for Summary Judgment of Defendant Liberty Insurance Corp.			ECF 30
22	Declaration of Lisa Duetsch	Weizel Dec. Ex. C		ECF 30-3
23	Florida Umbrella/Excess Uninsured Motorists Coverage Selection or Rejection Form, dated May 30, 2013;	Duetsch Dec. Ex. 2; Weizel Dec. Ex. I (ECF 30-9);		ECF 30-3

Trial Exh. #	Description	Exh. to	Bates	ECF #
	the state of Louisiana Uninsured/Underinsured Motorist Bodily Injury Coverage form dated May 30, 2013, and the West Virginia Excess Uninsured and Underinsured Motorist Coverage Selection or Rejection Form, dated May 30, 2013	Duetsch Dec. Ex. 3 (ECF 30-3); Duetsch Dec. Ex. 4 (ECF 30-3)		
24	Excerpt from the records of the New Hampshire Department of Insurance documenting review and approval of the New Hampshire Excess Uninsured Motorist Coverage Selection or Rejection Form	Weizel Dec. Ex. E		ECF 30-5
25	Email correspondence from Paulo Aguiar dated May 23, 2013 at 10:24 AM	Weizel Dec. Ex. F		ECF 30-6
26	Email correspondence from Paulo Aguiar dated May 25, 2012 at 12:15 PM and email correspondence from Michael Day dated May 23, 2012 at 4:10 PM	Weizel Dec. Ex. H		ECF 30-8
27	Email dated September 5, 2015 from Paul Stuart, ACE, to Joseph Covert, Liberty, and Lisa Duetsch, Plum Creek	Plaintiff's Opp to MSJ Ex. 5		ECF 33-5
28	Email dated September 15, 2015 from Joseph Covert, Liberty, to Paul Stuart, ACE and Lisa Duetsch, Plum Creek	Plaintiff's Opp to MSJ Ex. 6		ECF 33-6
29	Supplemental Declaration of Lavinia M. Weizel, Esq. in Support of Liberty Insurance Corporation's Objection to Plaintiff Brendan Kelly's Motion for Summary Judgment			ECF 34-2
30	Excerpts from the treatise of the International Risk Management Institute	Supp. Weizel Dec. Ex. 1		ECF 34-3
31	Commerce, Labor and Consumer Protection Hearing Report: SB 28 – Relative to Uninsured or Hit-and-Run Motor Vehicle Coverage dated January 30, 2007	Supp. Weizel Dec. Ex. 2		ECF 34-4

Trial Exh. #	Description	Exh. to	Bates	ECF #
32	Excerpts from the records documenting review and approval by the New Hampshire Insurance Department of Liberty's Commercial Umbrella Liability Policy Form and Umbrella Declarations	Supp. Weizel Dec. Ex. 3		ECF 34-5
33	Excerpt from the Casualty SOLD Program Proposal prepared by ACE Risk Management for Plum Creek Timber Company, Inc.	Supp. Weizel Dec. Ex. 5		ECF 34-7
34	Supplementary Declaration of Lavinia M. Weizel, Esq. in Support of the Motion for Summary Judgment of Defendant Liberty Insurance Corporation			ECF 37
35	Supplementary Declaration of Lisa Duetsch	Supp. Weizel Dec. Ex. 1		ECF 37-1
36	Memorandum from Kent Jones, with subject: "Delegation of Authority – Updated July 2013"	Supp. Duetsch Dec. Ex. A; Jones Aff. Ex. A (ECF 37-2)		ECF 37-1
37	Affidavit of Kent Jones	Supp. Weizel Dec. Ex. 2		ECF 37-2
38	Second Supplementary Declaration of Lavinia M. Weizel, Esq. in Support of the Motion for Summary Judgment of Defendant Liberty Insurance Corporation and in Opposition to Plaintiff Brendan Kelly's Motion for Summary Judgment			ECF 39-1
39	Second Supplementary Declaration of Lisa Duetsch	Second Supp. Weizel Dec. Ex. 1		ECF 39-2
40	Relevant excerpts of the Form 10-K Filing of Plum Creek Timber Company for the years 2014 and 2013	Second Supp. Weizel Dec. Ex. 3		ECF 39-4
41	Plum Creek By-Laws	Plaintiff's Reply to Defendant's Supp. MSJ Ex. A		ECF 40-1
42	Relevant excerpts of the Form 10-K Filing of Plum Creek Timber Company for the year 2011	Defendants' Supp. Reply ISO of MSJ Ex. 1		ECF 41-1

Trial Exh. #	Description	Exh. to	Bates	ECF #
43	Relevant excerpts of the Form 10-K Filing of Plum Creek Timber Company for the year 2012	Defendants' Supp. Reply ISO of MSJ Ex. 2		ECF 41-2
44	Delegations of Authority Memoranda from Kent Jones for years 2004, 2005, 2007, 2010, 2011, 2012, 2013, 2014 and 2015			
45	Florida Umbrella/Excess Uninsured Motorists Coverage Selection or Rejection Form, dated June 15, 2012; the state of Louisiana Uninsured/Underinsured Motorist Bodily Injury Coverage form dated June 15, 2012; New Hampshire Excess Uninsured Motorists Coverage Selection or Rejection Form dated June 15, 2012; and the West Virginia Excess Uninsured and Underinsured Motorist Coverage Selection or Rejection Form, dated June 15, 2012			

BRENDAN KELLY
By his attorneys,
THE STEIN LAW FIRM, PLLC

/s/ Robert Stein
Robert A. Stein, Esq. (NH Bar #2438)
PO Box 2159
Concord, NH 03302
603 228-1109
rstein@steinlawpllc.com

Diane Perin Hock (NH Bar #1999)
PO Box 2159
Concord, NH 03302-2159
603 288-1109
dphock@comcast.net

LIBERTY INSURANCE CORPORATION
By its attorneys,

/s/ Lavinia Weizel
Nancy D. Adams, Esq. (admitted *pro hac vice*)
Lavinia M. Weizel, Esq. (NH Bar #265351)
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, PC
One Financial Center
Boston, MA 02111
Telephone: (617) 542-6000
Fax: (617) 542-2241
nadams@mintz.com

John B. Schulte, Esquire (NH Bar #9376)
Law Offices of John B. Schulte
Two Bedford Farms Drive, Suite 202
Bedford, NH 03110
Telephone: (603) 623-8413
Fax: (603) 623-8517
Johnb.schulte@libertymutual.com

Dated: January 22, 2018

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2018, I electronically filed the foregoing document with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to counsel of record for the parties.

/s/ Lavinia Weizel
Lavinia M. Weizel